

**KATHERINE J. GRAHAM**  
Claimant

**SANTA FE TRAILS NURSING CENTER**  
Respondent

**FIREMAN'S FUND INSURANCE COMPANY**  
Insurance Carrier

# KANSAS WORKERS COMPENSATION FUND

## ORDER

## ISSUES

- (1) Whether the current injury was of a nature sufficient to impose the employer and insurer with the obligation for vocational rehabilitation when vocational rehabilitation was being offered for a prior injury at the time of the current alleged injury.
- (2) Whether an additional application for vocational rehabilitation is a proper subject of consideration by the Administrative Law Judge when a prior plan and assessment are under consideration and yet are on hold due to the existence of an alleged subsequent injury.

- (3) Whether the restrictions set forth by the physicians in the case reveal any need for vocational rehabilitation benefits to be related to the last injury when a prior plan for vocational rehabilitation takes into account virtually the same limitations as to lifting restrictions and standing, sitting, bending, etc., restrictions.
- (4) All such other issues that may be properly submitted to the Board within the boundaries of this appeal.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds that the Administrative Law Judge is given the authority by K.S.A. 1992 Supp 44-510g(e)(1) to refer an injured worker to a qualified vocational rehabilitation vendor for an assessment and for a report in regard to the need for vocational rehabilitation services. The respondent may dispute the factual findings made by the Administrative Law Judge which persuaded him that a vocational assessment was needed, but this does not deprive the Administrative Law Judge of his authority to make such findings and order.

After examining both K.S.A. 44-551, as amended by S.B. 59, and K.S.A. 44-534a, the Appeals Board finds that the subject Order of July 11, 1994, is neither a final order which can be reviewed by the Appeals Board nor does this appeal raise one of the issues considered jurisdictional under K.S.A. 44-534a. Consequently, the Appeals Board does not have jurisdiction to review the issues raised by this appeal from the Preliminary Hearing Order of the Administrative Law Judge.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that this appeal should be, and hereby is, dismissed. The Order for Compensation During Vocational Rehabilitation entered by Administrative Law Judge Floyd V. Palmer, on July 11, 1994, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Robert E. Tilton, Topeka, KS  
Matthew J. Stretz, Kansas City, MO  
Michael J. Unrein, Topeka, KS  
Floyd V. Palmer, Administrative Law Judge  
George Gomez, Director